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OCA # 110000

January 14, 2014

CHARTER ORDINANCE NO. 221

A CHARTER ORDINANCE EXEMPTING THE CITY OF WICHITA, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-1692, 12-1693, 12-1694, AND K.S.A. 12-1695 AND AMENDMENTS THERETO, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE LEVY OF A TRANSIENT GUEST TAX AND PROVIDING FOR PURPOSES FOR EXPENDITURE OF SUCH FUNDS, AND REPEALING CHARTER ORDINANCES NOS. 83, 91, 124, 174, 183 AND 213.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF WICHITA, KANSAS:

SECTION 1. The City of Wichita, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself from, and makes inapplicable to it, the provisions of K.S.A. 12-1692, 12-1693, 12-1694, and K.S.A. 12-1695 and amendments thereto, and provide substitute and additional provisions as hereinafter set forth in this ordinance. Such referenced provisions are either enactments or a part thereof which are applicable to this city, but are not applicable uniformly to all cities.

SECTION 2. As used in this ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons;

(b) "Hotel, motel, or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having more than eight (8) bedrooms furnished for the accommodation of such guests;

(c) "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than twenty-eight (28) consecutive days;

(d) "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel, or tourist court.

(e) "Convention and tourism facility" means a hotel, parking facility, convention center, visitor's center, museum, exhibition hall, or other cultural or tourism facility that is deemed to result in increased lodging facility occupancy, visitors, and tourism for the City of Wichita.

(f) "Convention and tourism promotion" means: (1) Activities designed to attract visitors into the City of Wichita through marketing and promotional efforts, including but not limited to advertising, directed to at least one or more convention and tourism market segments consisting of group tours, pleasure travelers, association meetings, conventions, trade shows, corporate meetings, festivals and travel; and (2) support of those community and cultural activities, festivals and organizations which encourage or which are deemed to result in increased lodging facility occupancy, visitors, and tourism for the City of Wichita.

SECTION 3. That a transient guest tax of six percent (6%) shall continue to be levied in the City of Wichita, Kansas upon the gross rental receipts derived from or paid by transient guests for lodging or sleeping accommodations exclusive of charges for incidental services or facilities in any hotel, motel or tourist court.

SECTION 4. The transient guest tax levied pursuant to this ordinance shall be based upon the gross rental receipts collected by any business.

SECTION 5. The tax levied pursuant to this ordinance shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly possible or practicable to the average equivalent thereto. Each business collecting the tax levied hereunder shall be responsible for paying over the same to the State Department of Revenue in the manner prescribed by this ordinance, and the State Department of Revenue shall administer and enforce the collection of such tax.

SECTION 6. The tax levied and collected pursuant to Section 3 of this ordinance shall become due and payable by the business monthly, on or before the last day of the month immediately succeeding the month in which it is collected, subject to the conditions and provisions of Section 15 herein, but any person filing an annual or quarterly return under the Kansas Retailer's Sales Tax Act, as prescribed in K.S.A. 79-3607, may, with the approval of the Secretary of Revenue and upon such conditions as the Secretary of Revenue may prescribe, pay the tax required by this ordinance on the same basis and at the same time he or she pays said retailer's sales tax. Each business shall make a true report to the Department of Revenue, on a form prescribed by the Secretary of Revenue, providing such information as may be necessary to determine the amounts to which such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.

SECTION 7. The Secretary of Revenue or the Secretary's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.

SECTION 8. For each and every month, or any part thereof, the tax provided for by this ordinance remains unpaid after the same becomes due and payable by the business, there shall be added to such tax, as a penalty, ten percent (10%) of the amount of said tax for the first month or any part thereof the same is unpaid, and for each and every month thereafter, two percent (2%) of the amount of said tax shall be added until the same is fully paid. In no case shall the total penalty exceed thirty percent (30%) of said tax.

SECTION 9. The administration and collection of said tax shall be by the Secretary of Revenue, as provided by K.S.A. 12-1694 and amendments thereto, and herein.

SECTION 10. A "Tourism and Convention Fund" is hereby established to receive disbursements of moneys from the Secretary of Revenue, as provided in subsection (c) of K.S.A. 12-1694 and amendments thereto.

SECTION 11. Revenue from the transient guest tax shall be expended in the priority as follows:

1st. To pay any bond, lease or contractual obligation, existing at the time of passage of this ordinance, resulting from or directly attributable to the construction or use of an existing convention and tourism facility.

2nd. To pay for any future obligation including, but not limited to, bonds, leases or contracts for the maintenance, modification, expansion or new construction of the Century II Convention Complex.

3rd. To pay for any future obligation including, but not limited to, bonds, leases or contracts for the maintenance, modification, expansion or new construction of a convention or tourism facility.

4th. To pay any deficit incurred in the operation or maintenance of any city owned convention or tourism facility.

5th. Any funds remaining shall be held in reserve to pay for convention and tourism promotion.

6th. Revenue from said tax shall be expended only for convention and tourism promotion and convention and tourism facilities within the corporate city limits of Wichita unless an equal transient guest tax is levied by the Board of County Commissioners of Sedgwick County, Kansas, and the City Council authorizes by resolution such expenditures.

SECTION 12. The originals of Charter Ordinances Nos. 83, 91, 124, 174, 183 and 213 of the City of Wichita, Kansas, are hereby repealed.

SECTION 13. This Charter Ordinance shall expire and no longer be in effect on January 14, 2034.

SECTION 14. This ordinance shall be published once each week for two consecutive weeks in the official city paper.

SECTION 15. This is a Charter Ordinance and shall take effect sixty-one (61) days after final publication unless a sufficient petition for referendum held on the ordinance as provided in Article 12, Section 5, Subdivision (c)(3) of the Constitution of the State of Kansas, in which case, the ordinance shall become effective if approved by a majority of the electors voting thereon.

PASSED BY THE GOVERNING BODY, not less than two-thirds of the members elect voting in favor thereof this 28th day of January, 2014.

Carl Brewer
Mayor

ATTEST: (Seal)

Karen Sublett
City Clerk

Approved as to Form:

Gary E. Rebenstorf
Director of Law